

Attorney(s): JACQUELINE C. HERRITT, ESQUIRE
Address: 89 HADDON AVENUE NORTH
HADDONFIELD, NJ 08033
Telephone No.: 856-429-8334
Attorney(s) for Plaintiff(s):

James & Stacey Dean

Plaintiff(s)

vs.

Boat-N-RV Warehouse, et al

Defendant(s)

SUPERIOR COURT OF NEW JERSEY
DIVISION
ESSEX COUNTY

DOCKET NO. L-7354-03
CIVIL ACTION

Summons

From the State of New Jersey
To the Defendant(s) named above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, CN-971, Trenton, NJ 08625. A filing fee* payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these office is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

Dated: December 19, 2003

Donald Phelan
Superior Court Clerk

Name of Defendant to be Served: Boat-N-RV Warehouse

Address of the Defendant to be Served: 12834 Rte. 9W, West Coxsackie, NY 12192

* \$135.00 FOR CHANCERY DIVISION CASES OR \$135.00 FOR LAW DIVISION CASES

KIMMEL & SILVERMAN

By: Jacqueline C. Herriott, Esquire

Vivian B. Peikin, Esquire

89 Haddon Avenue North

Haddonfield, New Jersey 08033

(609) 429-8334

Attorneys for Plaintiff

JAMES AND STACEY DEAN

99 Liberty Street

Bloomfield, NJ 07003

v.

WORKHORSE CUSTOM CHASSIS

600 Central Avenue, Suite 220

Highland Park, IL 60035

and

R-VISION

2666 S. Country Club Road

Warsaw, IN 46580

and

BOAT-N-RV WAREHOUSE

12834 Rte. 9W

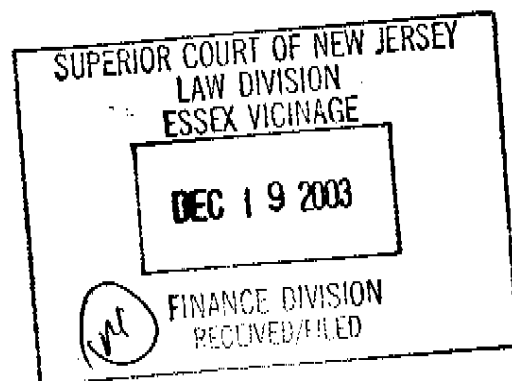
West Coxsackie, NY

SUPERIOR COURT OF NEW JERSEY

ESSEX COUNTY - LAW DIVISION

CIVIL ACTION

NO: L-7354-03



AMENDED COMPLAINT

1. Plaintiffs, James and Stacey Dean, are adult individual citizens and legal residents of the State of New Jersey, residing at 99 Liberty Street, Bloomfield, New Jersey 07003.

2. Defendant, Workhorse Custom Chassis, is a business corporation qualified to do business in the State of New Jersey, with its legal residence and principal place of business located at 600 Central Avenue, Suite 220, Highland Park, Illinois 60035, and can be served at same.

3. Defendant, R-Vision, is a business corporation qualified to do business in the State of New Jersey, with its legal residence and principal place of business located at 2666 S. Country Club Road, Warsaw, IN 46580, and can be served at same.

4. Defendant, Boat-N-RV Warehouse, is a business corporation qualified to do business in the State of New Jersey, with its legal residence and principal place of business located at 12834 Rte. 9W, West Coxsackie, NY 12192, and can be served at same.

BACKGROUND

5. On or about October 14, 2001, Plaintiffs purchased a 2002 Condor Motorhome by R-Vision, manufactured and warranted by Defendant, Workhorse Custom Chassis bearing the Vehicle Identification Number 5B4LP57G113333502. The vehicle was purchased in the State of New York and is registered in the State of New Jersey.

6. The price of the vehicle, including registration charges, document fees, sales tax, finance and bank charges but, excluding other collateral charges not specified, totaled more than \$119,112.00. A true and correct copy of the Sale Contract is attached hereto, made a part hereof and marked Exhibit "A".

7. Plaintiff avers that as a result of the ineffective repair attempts made by Defendant through its authorized dealer(s), the vehicle cannot be utilized for the purposes

intended by Plaintiff at the time of acquisition and as such, the vehicle is worthless.

8. In consideration for the purchase of the above vehicle, Defendant issued to Plaintiff several written warranties, including the balance of a three (3) year or thirty-six-thousand (36,000) mile bumper-to-bumper warranty, and a 72 month/75,000 mile extended warranty, as well as other standard warranties, as set forth in the warranty booklet. A true and correct copy of the Extended Service Plan Contract is not in Plaintiffs' possession, however, it is believed that Defendant may obtain from it's authorized dealer.

9. On or about October 14, 2001, Plaintiff took possession of the above-mentioned vehicle and experienced nonconformities which substantially impair the use, value and/or safety of the vehicle.

10. The nonconformities violate the express written warranties issued to Plaintiff by Defendant.

11. Plaintiff avers the vehicle has been subject to repair more than three (3) times for the same nonconformity, and the nonconformity remains uncorrected.

12. In addition, the above vehicle has or will be out of service by reason of the nonconformities complained of for a cumulative total of twenty (20) days or more.

13. Plaintiff has delivered the nonconforming vehicle to an authorized service and repair facility of the manufacturer on numerous occasions. After a reasonable number of attempts, the manufacturer was unable to repair the nonconformities.

14. During the warranty period, Plaintiff complained about defects and/or non-conformities to the following vehicle components on at least three (3) occasions: transmission, acceleration, engine management system, windshield wipers and powertrain. True and correct copies of repair invoices are attached hereto, made a part hereof and marked Exhibit "B."

15. The vehicle continues to exhibit defects and nonconformities which substantially impair its use, value and/or safety.

16. Plaintiff has been and will continue to be financially damaged due to Defendant's intentional, reckless, wanton and negligent failure to comply with the provisions of its warranty.

17. Plaintiff has provided Defendant with a final repair opportunity prior to filing the within Complaint.

18. Plaintiff seeks relief for losses due to the nonconformities and defects in the above-mentioned vehicle in addition to reasonable attorney fees and all court costs.

COUNT I AGAINST ALL DEFENDANTS
MAGNUSON-MOSS FEDERAL TRADE COMMISSION IMPROVEMENT ACT

17. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

18. Plaintiff is a "Consumer" as defined by 15 U.S.C. §2301(3).

19. Defendant is a "Warrantor" as defined by 15 U.S.C. §2301(5).

20. The purpose for which this product is normally used is personal, family and household use.

21. By the terms of the express written warranties referred to in this Complaint, Defendant agreed to perform effective warranty repairs at no charge for parts and/or labor.

22. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.

23. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiff has suffered damages and, in accordance with 15 U.S.C. §2310(d)(1), Plaintiff is entitled to bring suit for such damages and other legal and equitable relief.

24. Section 15 U.S.C. § 2310(d)(1) provides:
If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the amount of aggregate amount of costs and expenses (including attorney fees based upon actual time expended), determined by the court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and prosecution of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

25. Plaintiff avers Defendant's Dispute Resolution Program is not in compliance with 16 CFR 703 by the FTC for the period of time this claim was submitted.

26. Plaintiff avers that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against Defendant.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the contract price of the subject vehicle, plus all collateral charges and attorney fees.

COUNT II AGAINST ALL DEFENDANTS
UNIFORM COMMERCIAL CODE

27. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

28. The defects and nonconformities existing within the vehicle constitute a breach of contractual and statutory obligations of Defendant, including but not limited to the following:

- a. Express Warranty;
- b. Implied Warranty Of Merchantability; and
- c. Implied Warranty Of Fitness For A Particular Purpose.

29. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Plaintiff has justifiably relied upon Defendant's express warranties and implied warranties of fitness for a particular purpose and implied warranties of merchantability.

30. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Defendant was aware Plaintiff was relying upon Defendant's express and implied warranties, obligations, and representations with regard to the subject vehicle.

31. Plaintiff has incurred damages as a direct and proximate result of the breach and failure of Defendant to honor its express and implied warranties.

32. Such damages include, but are not limited to, the contract price of the vehicle plus all collateral charges, including attorney fees and costs, as well as other expenses, the full extent of which are not yet known.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant, in an amount equal to the contract price of the subject vehicle, plus all collateral charges and attorney fees.

COUNT III AGAINST ALL DEFENDANTS
NEW JERSEY CONSUMER FRAUD ACT

33. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

34. Plaintiff is a "Person" as defined by N.J.S.A. 56:8-1(d).

35. Defendant is a "Person" as defined by N.J.S.A. 56:8-1(d).

36. Defendant's actions surrounding the sale and servicing of the subject vehicle were unconscionable. Defendant's agents also acted with a reckless and callous disregard for Plaintiff's rights in negotiating and handling Plaintiff's warranty claims.

37. Defendant's actions surrounding the sale and servicing of said vehicle constitute a unconscionable commercial practice, deception, fraud, false pretense, false promise, and/or misrepresentation. Defendant and its agents acted affirmatively in such a manner as to be an unlawful commercial practice.

38. Defendant acted knowingly with the intent to cause plaintiff's reliance thereupon.

39. Defendant knowingly concealed, suppressed, or omitted facts material to the transactions at issue, in that Defendant was aware the defect(s)/condition(s) could not be repaired, and that the ineffectual repairs were performed by incompetent or unqualified individuals. Defendant's failure to verify the defect(s) or condition(s) constitutes a refusal to perform the repairs under its statutory or contractual obligations.

40. Plaintiff believes, and therefore, avers that the defect(s) or condition(s) outlined previously is/are an inherent design defect and that as such the Defendant must certify the existence of this defect or condition to the Division of Consumer Affairs. Defendant has failed to file this certification and this failure is a violation of the New Jersey Consumer Fraud Act N.J.S.A. 56:8-1 et seq.

41. Defendant's failure to supply an itemized legible statement of repair is an unlawful practice pursuant to the New Jersey Consumer Fraud Act N.J.S.A. 56:8-2.

42. The Act prohibits the aforementioned action of Defendant in the sale and attempted repair of the subject vehicle.

43. Plaintiff believes, and therefore, avers the reckless, wanton and willful failure of Defendant to comply with the terms of the written warranties constitutes an unfair method of competition.

44. As a result of Defendant's unlawful conduct, Plaintiff has and will continue to suffer ascertainable financial loss proximately caused by the Defendant's conduct. Said losses are outlined as follows:

- a. Plaintiff is entitled to a full refund N.J.S.A. 56:8-2.11-12;
- b. Plaintiff's vehicle given the defect/condition is worthless;
- c. Plaintiff lost time from work and other money as a result of having to take the vehicle in for the repeated repair attempts;
- d. Plaintiff has been relegated to finding alternative means of transportation while the vehicle was in for repairs and while the vehicle has been in its present condition. As a result, Plaintiff has incurred additional transportation costs; and
- e. Plaintiff has expended sums to maintain, store, insure, register,

and other expenses for
transportation.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant for compensatory damages, treble damages, attorney fees, costs of suit, and any further relief as the Court may deem just and proper.

**COUNT IV AGAINST R-VISION AND BOAT-N-RV WAREHOUSE
NJ MOTOR VEHICLE WARRANTY ACT**

45. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

46. Plaintiff is a ''Consumer'' as defined by N.J.S.A.
56:12-30.

47. Defendant is a ''Manufacturer'' as defined by N.J.S.A.
56:12-30.

48. Boat-N-RV Warehouse, is and/or was at the time of sale a ''Dealer or Motor Vehicle Dealer'' in the business of buying, selling, and/or exchanging vehicles as defined by N.J.S.A. 56:12-30.

49. On or about October 14, 2001, Plaintiff took possession of the above mentioned vehicle and experienced nonconformities as defined by N.J.S.A. 56:12-29 et seq., which substantially impair the use, value and/or safety of the vehicle.

50. Defendant through its authorized dealer failed to provide written notification that the vehicle was covered by the New Jersey Motor Vehicle Warranty Act as provided in N.J.S.A.

56:12-34(c). Plaintiff believes and therefore avers said failure is a per se violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., as well as a violation of the New Jersey Motor Vehicle Warranty Act.

51. The nonconformities described violate the express written warranties issued to Plaintiff by Defendant.

52. Section 56:12-32 of the New Jersey Motor Vehicle Warranty Act provides:

- a. If, during the period specified in section 3 of this act, the manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time, the manufacturer shall accept return of the motor vehicle from the consumer. The manufacturer shall provide the consumer with a full refund of the purchase price of the original motor vehicle including any stated credit or allowance for the consumer's used motor vehicle, the cost of any options or other modifications arranged, installed, or made by the manufacturer or its dealer within 30 days after the date of original delivery, and any other charges or fees including, but not limited to, sales tax, license and registration fees, finance charges, reimbursement for towing and reimbursement for actual expenses incurred by the consumer for the rental of a motor vehicle equivalent to the consumer's motor vehicle and limited to the period during which the consumer's motor vehicle was out of service due to a nonconformity, less a reasonable allowance for vehicle use.

53. Section 56:12-33 of the New Jersey Motor Vehicle Warranty Act provides a presumption of a reasonable number of repair attempts:

- a. It is presumed that a manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time if, within the first 18,000 miles of operation or during the period of two years following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date:
 - (1) Substantially the same nonconformity has been subject to repair three or more times by the manufacturer or its dealer and the nonconformity continues to exist; or
 - (2) The motor vehicle is out of service by reason of repair for one or more nonconformities for a cumulative total of 20 or more calendar days since the original delivery of the motor vehicle and a nonconformity continues to exist.
- b. The presumption contained in sub-section a. of this section shall apply against a manufacturer only if the manufacturer has received

written notification, by or on behalf of the consumer, by certified mail return receipt requested, of a potential claim pursuant to the provisions of this act and has had one opportunity to repair or correct the defect or condition within 10 calendar days following receipt of the notification. Notification by the consumer shall take place any time after the motor vehicle has had substantially the same nonconformity subject to repair two or more times or has been out of service by reason of repair for a cumulative total of 20 or more calendar days.

54. Plaintiff has satisfied the above definition as the vehicle has been subject to repair more than three (3) times for the same nonconformity, and the nonconformity remained uncorrected.

55. In addition, the above vehicle has or will be out of service by reason of the nonconformities complained of for a cumulative total of twenty (20) or more calendar days.

56. Plaintiff has delivered the nonconforming vehicle to an authorized service and repair facility of the Defendant on numerous occasions as outlined below.

57. After a reasonable number of attempts, Defendant was unable to repair the nonconformities.

58. During the warranty period, Plaintiff complained about defects and/or non-conformities to the following vehicle components on at least three (3) occasions: transmission, acceleration, engine management system, windshield wipers and powertrain. True and correct copies of repair invoices are attached hereto, made a part hereof and marked Exhibit "B."

59. The vehicle continues to exhibit defects and nonconformities which substantially impair its use, value and/or safety.

60. Plaintiff has been and will continue to be financially damaged due to Defendant's intentional, reckless, wanton, and negligent failure to comply with the provisions of N.J.S.A. 56:12-29 et seq.

61. Plaintiff has provided Defendant with a final repair opportunity prior to filing the within Complaint.

62. Pursuant to N.J.S.A. 56:12-29 et seq., Plaintiff seeks relief for losses due to the nonconformities and defects in the above-mentioned vehicle in addition to reasonable attorney fees and all court costs.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, attorneys' fees, and court costs.

KIMMEL & SILVERMAN

By: 

Jacqueline C. Herritt, Esquire
Vivian B. Peikin, Esquire
Attorneys for Plaintiff
89 Haddon Avenue North
(856) 429-8334

JURY-DEMAND

Plaintiff hereby demands a trial by jury as to all issues.

KIMMEL & SILVERMAN

By: 

Jacqueline C. Herritt, Esquire
Vivian B. Peikin, Esquire
Attorneys for Plaintiff

CERTIFICATION PURSUANT TO R.4:15-1

Upon knowledge and belief I hereby certify that there are no other actions or arbitrations related to this suit pending or presently contemplated.

KIMMEL & SILVERMAN

By: 

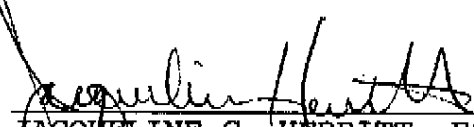
Jacqueline C. Herritt, Esquire
Vivian B. Peikin, Esquire
Attorneys for Plaintiff

CERTIFICATION OF NOTICE

Pursuant to N.J.S.A. 56:8-20 Plaintiff is mailing a copy of this Complaint to the Office of the Attorney General, Richard J. Hughes Justice Complex, 25 West Market Street in the City of Trenton, County of Mercer, in the State of New Jersey on , 2003.

KIMMEL & SILVERMAN

By:


JACQUELINE C. HERRITT, ESQUIRE
VIVIAN B. PEIKIN, ESQUIRE
Attorneys for Plaintiff

Other Authors' Publications

To register for UN coverage

151

Amount: \$100.00

may be retaining a portion of these amounts

11/11/11

7-10/17/200

1946

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Seller, this 1st day of May, 2010.

Assignee's name and address:

M&I CREDIT CORPORATION
Installment Loan Operations
One Fountain Plaza P.O. Box 767
Buffalo New York 14220

10/14/200

SIGNER: Any person signing the Co-Signer Agreement below, promises to pay and to be bound with all the Co-Signers (a) and (b) (c) to pay all sums due and to perform all agreements in Contract Co-Signer will not be owner of a vehicle.

OWNERS: Any person signing the Security Agreement, including the security interest in the vehicle and tires separately and together with all Co-Owner(s) and Buyer(s), on any all agreements in the Security Agreement and all other parts of this document except the "Promised Pay" section.

MS: The terms shown in the boxes above are part of this Contract

~~20/10/200~~

WILL TO PAY: You agree to pay us the Total Sale Price for the Vehicle and to pay the Total Down Payment, and paying us the amount of the first purchase credit charge (called "Interest" in this Contract) at the time of purchase. This is when we promise to make payments in accordance with the payment schedule set out in the schedule of payments and to return the same to you on the date that you have set. You agree to pay all other amounts within the time set out in the schedule of payments in the Contract. You agree to make payments to us in accordance with the schedule of payments, which is set out in the Contract.

SECURITY AGREEMENT. I, the undersigned, have a claim or claim(s) due and the performance of all required obligations under this contract. You give us a security interest in the vehicle, in all parts related to the operation of the vehicle at any later time, and in any proceeds of the vehicle and in all insurance proceeds.

NOTE TO THE BUYER: 1. Do not sign this Contract before you read it or fill in any blank space. 2. You are entitled to a complete fill-in copy of this Contract. 3. Under the law, you have the right to pay an advance the full amount if you do so you may, depending on the nature of the credit service charge, either (a) prepay without penalty, or (b) for some circumstances obtain a rebate of the credit service charge. 4. According to law you have the privilege of choosing the insurance on the motor vehicle provided for in this Contract from an agent or broker of your own selection.

grinding below, we agree to sell the Vehicle to you under the terms of this Contract.

You hereby acknowledge receipt of a copy of this Contract

Handwritten signature

BUYER X

(SEAL) 0140

186A

BUYER X Stacy Dean

(SEA13) 10/14/91

GO-SIGNER NOTICE

in accordance with the debt identified above. Although you may not personally receive any property, services or money, you may be sued for

CO-SIGNER: Any person who signs this contract as a co-signer is not a party to the contract and is not responsible for the payment of the debt. The co-signer is only responsible for the payment of the debt if the primary obligor fails to pay the debt.

CO-OWNER: Any person who signs this contract as a co-owner is a party to the contract and is responsible for the payment of the debt. The co-owner is responsible for the payment of the debt if the primary obligor fails to pay the debt.

TERMS: The terms shown in the boxes above are part of this contract. 10/14/200

PROMISE TO PAY: You agree to pay us the total sale price for the vehicle, including the Total Down Payment, and paying us the monthly payments plus the credit service charge (called "interest" in this contract) at the Annual Percentage Rate shown above. You promise to make payments in accordance with the schedule shown on the payment schedule. You agree to pay all taxes, license fees, and other charges that may be assessed against the vehicle. You agree to make payments of the debt at the address shown on the payment schedule. You agree to make payments of the debt at the address shown on the payment schedule.

NOTICE TO THE BUYER: 1. Do not sign this contract before you read it. It contains any blank space. 2. You are entitled to a completely filled-in copy of this contract. 3. Under the law, you have the right to pay off in advance the full amount due. If you do so, you may, depending on the nature of the credit service charge, either (a) prepay without penalty, or (b) under some circumstances obtain a rebate of the credit service charge. 4. According to law you have the privilege of purchasing the insurance on the motor vehicle provided for in this contract from an agent or broker of your own selection.

By signing below, we agree to sell the vehicle to you under the terms of this contract. You hereby acknowledge receipt of a copy of this contract. REMAINING PART OF CONTRACT. BUYER: [Signature] (SEAL) 10/14/04 Date. BUYER: [Signature] (SEAL) 10/14/04 Date.

CO-SIGNER NOTICE: You agree to pay the debt, even if the person who receives the money is not capable of paying the debt. You should know that the total of payments listed above does not include finance charges, respossession or foreclosure costs, court costs or attorney's fees, or other charges that are stated in the contract. You will also have to pay some or all of these costs and charges as required by the terms of the contract. This notice is not the writing that obligates you to pay the debt. You have read the Retail Installment Contract, which contains the exact terms of your obligation, and the Co-Signer's Notice. You have been given a completed copy of this Notice and each writing that obligates you or the Buyer on this contract. Signature of Co-Signer: [Signature] Date: [Date].

CO-SIGNER: YOU SHOULD READ THE NOTICE TO CO-SIGNER ABOVE, BEFORE SIGNING THIS CO-SIGNER'S AGREEMENT. CO-SIGNER'S AGREEMENT: You, the co-signer, are not a party to this contract and do not intend to be bound by its terms. You are signing this contract only to help the Buyer. You agree to pay the debt if the Buyer fails to pay the debt. You agree to pay the debt if the Buyer fails to pay the debt. You agree to pay the debt if the Buyer fails to pay the debt. Signature of Co-Signer: [Signature] Address: [Address] Date: [Date].

OWNER'S SECURITY AGREEMENT: You, the owner, are not a party to this contract and do not intend to be bound by its terms. You are signing this contract only to help the Buyer. You agree to pay the debt if the Buyer fails to pay the debt. You agree to pay the debt if the Buyer fails to pay the debt. You agree to pay the debt if the Buyer fails to pay the debt. Signature of Owner: [Signature] Address: [Address] Date: [Date].

ASSIGNMENT: Seller agrees to be bound by all provisions of this contract. Also, the seller agrees and intending to be legally bound hereby, the seller assigns this contract to the Assignee. The Assignee agrees to be bound by all provisions of this contract. Also, the Assignee agrees and intending to be legally bound hereby, the Assignee assigns this contract to the Assignee. Signature of Seller: [Signature] Name of Seller: [Name]. Signature and Title of Person signing for Seller: [Signature].

SIGNATURE <i>[Signature]</i>	DATE: <i>10/14/01</i>	OR LEASE AGREEMENT FOR REGISTRATION AND TITLE FEES IS AN ESTIMATE. IN SOME INSTANCES, IT MAY EXCEED THE ACTUAL FEES DUE TO THE COMMISSIONER OR MOTOR VEHICLES. THE DEALER WILL AUTOMATICALLY, AND WITHIN SIXTY DAYS OF SECURING SUCH REGISTRATION AND TITLE, REFUND ANY AMOUNT OVERPAID FOR SUCH FEES.
SALESMAN'S SIGNATURE <i>[Signature]</i>	DATE: <i>10/14/01</i>	
APPROVED BY: _____	DATE: _____	

CHEVROLET

WRECKER CHEVROLET



Mr. Goodwrench

4301 Clinton Hwy Box 12450

KNOXVILLE, TN 37912

(615) 687-7710

THE LITTLE CHEEPEER DEALER

DISCLAIMER OF WARRANTIES

The factory warranty constitutes all of the warranties with respect to the sale of this item. The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose. Seller neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of this item.

I ACKNOWLEDGE RECEIPT OF
THE PARTS AND LABOR
LISTED BELOW. X

CUSTOMER NO. 23888	ADVISOR ALLEN R SURGENDR 184	CARD NO. AS3	INVOICE DATE 11/05/01	INVOICE NO. CVCS209532
AMES DEAN	LABOR RATE 62.25	LICENSE NO.	MILEAGE 2488	COLOR
7 LIBERTY ST	YEAR / MAKE / MODEL 01/WORKHORSE/	DELIVERY DATE	DELIVERY MILES	
DOMFIELD, NJ 07003	VEHICLE ID. NO. S 4 P 7 1 3 3 5 2	SELLING DEALER NO.	PRODUCTION DATE	
BUSINESS PHONE 201-259-9874	F.T.E. NO.	P.O. NO.	R.O. DATE 11/05/01	
	DATE OWNER NOTIFIED OF REPAIR COMPLETED	MILEAGE OUT		

JOB# 1 CHARGES-----				
BOR----- 1 04CVZ ***ENG. PERFORMANCE HOURS: 0.80 TECH(S):299 NO POWER AND SES LIGHT ON CK AND ADVISE CRANSHAFT SENSOR INOP TEST AND REPALCE SENSOR AND ROAD TEST VEHICLE				WARRANTY
PTS-----	QTY-----	FF-NUMBER-----	DESCRIPTION-----	UNIT PRICE-----
	1	12556427	SENSOR 2.383 C	
				TOTAL - PARTS
				WARRANTY 0.00
IBLET-----	PO#-----	VEND INV#-----	INV. DATE-----	DESCRIPTION-----
	16436	209532	11/05/01	WRECKER HAUL
				TOTAL - SUBLET
				WARRANTY 0.00
JOB# 1 TOTALS-----				
JOB# 1 JOURNAL PREFIX CVCS JOB# 1 TOTAL				0.00
JOB# 2 CHARGES-----				
BOR----- 2 12CVZ ***BRAKES HOURS: 0.60 TECH(S):299 HYDROBOOST LEAKING CK AND ADVISE LOOSE FITTING AND BRAKE MISADJUSTED TIGHTEN FITTING AND ADJUST AUTO APPLY BRAKE				WARRANTY
JOB# 2 TOTALS-----				
JOB# 2 JOURNAL PREFIX CVCS JOB# 2 TOTAL				0.00
JOB# 3 CHARGES-----				
BOR----- 3+18CVZ ***ACCESSORIES HOURS: 0.50 TECH(S):299 INSTALL DRIVESHAFT FROM WRECKER HAUL LEFT OUT FROM WRECKER HAUL INSTALL REAR SECTION OF THREE PIECE DRIVESHAFT				WARRANTY
JOB# 3 TOTALS-----				
JOB# 3 JOURNAL PREFIX CVCS JOB# 3 TOTAL				0.00

**PLAINTIFF'S
EXHIBIT**

B

CHEVROLET

KEEPER CHEVROLET



Mr. Goodwrench

4301 Clinton Hwy Box 12450

KNOXVILLE, TN 37912

(615) 687-7710

THE LITTLE CHEEPEER DEALER

DISCLAIMER OF WARRANTIES

The factory warranty constitutes all of the warranties with respect to the sale of this item/terms. The seller hereby expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability or fitness for a particular purpose. Seller neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of this item/terms.

I ACKNOWLEDGE RECEIPT OF
THE PARTS AND LABOR
LISTED BELOW. X

CUSTOMER NO. 123988	ADVISOR ALLEN R SURGENOR 184	CARD NO. AS3	INVOICE DATE 11/05/01	INVOICE NO. CVC5209532
JAMES DEAN	LABOR RATE 62.25	LICENSE NO.	COLOUR	STOCK NO.
29 LIBERTY ST	YEAR / MAKE / MODEL 01 / WORKHORSE /	MILEAGE 2488	DELIVERY DATE	DELIVERY MILES
BLOOMFIELD, NJ 07003	VEHICLE ID. NO. 5 4 P 7 1 3 3 5 2	SELLING DEALER NO.	PRODUCTION DATE	
RESIDENCE PHONE	F.T.E. NO.	P.D. NO.	R.O. DATE 11/05/01	
BUSINESS PHONE 201-259-9874	DATE OWNER NOTIFIED OF REPAIR COMPLETED	MILEAGE OUT		

TOTALS

YOU MAY RECEIVE A CUSTOMER SATISFACTION SURVEY FROM GENERAL MOTORS IN THE NEXT FEW WEEKS. IF FOR ANY REASON YOU CANNOT MAKE US "COMPLETELY SATISFIED" PLEASE CONTACT YOUR SERVICE ADVISOR IMMEDIATELY

SERVICE HOURS 7 A.M. TIL 6.00 P.M.

MONDAY THRU FRIDAY

TOTAL LABOR....	0.00
TOTAL PARTS....	0.00
TOTAL SUBLET....	0.00
TOTAL G.O.G....	0.00
TOTAL MISC CHG.	0.00
TOTAL MISC DISC	0.00
TOTAL TAX.....	0.00
TOTAL INVOICE \$	0.00

CASH [] CHECK#..... AM EXPRESS []

DISCOVER [] VISA [] MASTERCARD []

OTHER [] CHARGE []

CUSTOMER SIGNATURE

JERSEY BUS SALES

2015 RT 206 N

BORDENTOWN NJ 08505

Phone (609) 298-2987

Fax # (609) 291-1287

Scheduling (887) 548-2312

THANK YOU FOR DOING BUSINESS
WITH JERSEY BUS SALES INC. !!

INVOICE

Invoice Date: 03/28/2002

Terms:

Invoice # 3599

Page 1

WORKHORSE CUSTOM CHASSIS
29508 SOUTHFIELD ROAD
SOUTHFIELD MI 48076
(248) 443-1515 Ext.

JAMES DEAN

V.O. #	Vehicle Unit #	Make VIN	Model	Date	Order
1599	MH01313	WORKHORSE CC	MOTORHOME		
457	MPV1330	5B4LP57G113333502			

3RVMET0032001313

labor Performed	Description	Hours	Total
HWAR	CHASSIS-WAR-OTHER	7.80	507.00

Qty	Part Number	Description	Unit Price	Total
1.00	15713330	SHAFT DRIVE ASSY	223.86	223.86
1.00	25311785	ELECTRONIC THROTTLE ACTU	353.46	353.46

ts:	577.32 Freight:	.00 Tax:	.00 AR	1084.32
or:	507.00 Misc:	.00 Total:	1084.32	
lt:	.00 Supplies:	.00 Change:	.00	

red

Date



PO BOX 1386 (293 HOGAN RD)
BANGOR MAINE 04402-1386
PLEASE CALL 207-945-9401 PRESS 3 FOR SERVICE
TOLL FREE 1-800-542-4389
PLEASE VISIT OUR WEB SITE AT WWW.QUIRKAUTO.COM

OWNER NO. 83839	ADVISOR JEFFERSON A RANKIN	TAG NO. 98 3502	INVOICE DATE 08/29/02	INVOICE NO. CVC5454861
AMES DEANE 9 LIBERTY ST LOOMFIELD, NJ 07003	LABOR RATE 65.00	LICENSE NO. MBW80D	MILEAGE 16,346	COLOR WHITE/
	YEAR / MAKE / MODEL 01 / WORKHORSE / MOTORHOME			DELIVERY DATE 04/12/01
	VEHICLE I.D. NO. 5 B 4 L P 5 7 G 1 1 3 3 3 5 0 2			SELLING DEALER NO. NBH
	F.T.E. NO.			P.O. NO.
R.O. DATE 08/27/02				
PHONE 73-748-2966	BUSINESS PHONE	COMMENTS		
				MO: 16346

IR & PARTS: 50C17ZMISC2... TOWED IN BY WORKHORSE BROADSIDE... C/S NON RETURN OVER...
FOUND ENGINE WOULD NOT CRANK... FOUND NO GROUND TO STARTER
RELAY EVERY OTHER IGNITION CYCLE... TESTED CRANK SENSOR
CIRCUIT SEEMS OK... FOUND SENSOR RUBBING ON CRANKSHAFT
REPLACED CRANKSHAFT SENSOR & SHIMMED SENSOR TO PREVENT
RUBBING... STILL NOT STARTING PROPERLY... REPLACED PCM ASSY &
REPROGRAMMED... STILL NOT STARTING...
MADE TEMPORARY REPAIR BY GROUNDING STARTER RELAY TERMINAL
TO A PERMANENT GROUND AT UNDER HOOD FUSE PANEL.
STARTS NORMALLY NOW

I agree that a late charge of 1% per month (A.P.R. 18%) will be added to all delinquent accounts along with any court costs, attorney fees and costs of collection the seller may incur in enforcing the terms of this agreement. If legal action becomes necessary by either seller or buyer, it is also agreed that this or any contemporaneous or subsequent agreement will be governed as to validity, interpretation, construction, effect, and in all other respects by the laws of the State of Maine.

S	QTY	FP NUMBER	DESCRIPTION	UNIT PRICE	
# 1	1	12200413	PCM REM 3.670		INTERNAL
# 1	-1	12200413	PCM RETURN		INTERNAL
# 1	1	12556427	SENSOR 2.383		INTERNAL
JOB # 1 TOTAL PARTS				0.00	
JOB # 1 TOTAL LABOR & PARTS				0.00	

G. & SUPPLIES			
# 1	FREIGHT (PARTS)		INTERNAL
TOTAL		0.00	

LS			
*****	THANK YOU FOR YOUR BUSINESS!!!!	TOTAL LABOR	0.00
IT 2	MENU	TOTAL PARTS	0.00
1) CASH		TOTAL SUBLET	0.00
	REMINER: YOUR NEXT SERVICE IS	TOTALING D.G.	0.00
2) CHECK #	DUE ON THE FOLLOWING DATE OR	TOTAL MISC CHG	0.00
	MILEAGE WHICHEVER COMES FIRST	TOTAL MISC DISC	0.00
3) CREDIT CARD		TOTAL TAX	0.00
	DATE / / OR MILES	TOTAL INVOICE \$	0.00
4) A/R			

THE WARRANTY ON OUR PARTS IS 12 MONTHS OR 12,000 MILES
EVERY OCCURS FIRST (PARTS AND LABOR) UNLESS OTHERWISE
ED. GOODWRENCH SERVICE PLUS PARTS ARE INDICATED WITH AN
FRONT OF THE DESCRIPTION. NO WARRANTY ON AFTERMARKET
S. SEE YOUR SERVICE ADVISOR FOR DETAILS.

CUSTOMER SIGNATURE

28828

76196

325 Orient Way P.O. Box 503
LYNDHURST, NEW JERSEY 07071
SERVICE (201) 939-7790JEAN JAMES
19 LIBERTY ST
LOOMFIELD NJ 07003
HOME: 973-748-2966 BUS: 908-740-7961

INVOICE

MEADOWLANDS FREIGHTLINER
P.O. Box 503
LYNDHURST, NEW JERSEY 07071
(201) 939-7718

PAGE 1

SERVICE ADVISOR: 237 BRIAN

COLOR	YEAR	MAKE/MODEL	VIN	LICENSE	MILEAGE IN/OUT	TAG
WHITE	01	WORKHORSE CP31442	5B4LP57G113333502	MBW80D	16978/16978	TDEAN
DATE	REGD DATE	WARR EXP	PROMISED	BOOKD	PAID	INVT DATE
1JAN2001			20:48 09OCT02		84.00 CASH	31OCT2002
R.O. DEFECT	READY	OPTIONS: DLR:06007				

3:32 09OCT02 11:53 31OCT02

LINE OPCODE TECH TYPE HOURS LIST NET TOTAL

CRANK DOES NOT START / DRIVE SHAFT TIED UP UNDER RASH AREA

CAUSE: MELTED

N2370 SWITCH REPLACE FORD MOTOR

7WGM94 0.50

(N/C)

1 26009706 SWITCH

(N/C)

N6270 WIRING AND/OR CONNECTOR REPAIR ENGINE

7WGM94 0.50

(N/C)

1 12102602 CONNECTOR

(N/C)

PC: 1E

PART#: 26009706

COUNT: 2

CLAIM TYPE:

AUTH CODE:

RTS: 0.00 LABOUR: 0.00 TOTAL: 0.00

FOR NO START NO POWER TO HALF OF FUSE BOX TRACED WIRE IGN SWITCH NO
OD-PLUG MELTED RPL SWITCH & WARPED NEW BEUG-INSTALL DRIVE SHAFT

DEAR CUSTOMER:

CONCERNING THE ABOVE REPAIR WORK PERFORMED IN OUR SHOP, WE ARE INTERESTED TO KNOW IF YOU ARE SATISFIED WITH THE RESULTS AND AT THE SAME TIME, THANK YOU FOR YOUR BUSINESS. PLEASE CONTACT OUR SERVICE DEPARTMENT IF YOU HAVE ANY PROBLEMS.

(201) 939-7708 EXT. 207

FRANK'S TRUCK CENTER

19400 LIBERTY ST. LYNDHURST, NJ 07071

We guarantee the labor performed in this repair shop has been properly performed, and that any defect which occurs will be rectified without charge by this repair shop for a period of 90 days or 4,000 miles from the date of the repair, whichever first occurs.

parts is sold "as is". The only warranties applying to the parts are those which may be offered by the manufacturer(s). The selling dealer hereby expressly disclaims all warranties, either express or implied, including any implied warranties of merchantability or fitness for a particular purpose, and neither makes nor authorizes any other person to assume for it any liability in connection with the sale of this part(s) and for service, or shall not be entitled to recover from the selling dealer any consequential damages, damages to property, damages for loss of time, loss of profits, or income, or any other incidental damages. In addition, expressly excluded is any dealer liability for loss pertaining to safety or performance by way of "strict liability", negligence or otherwise.

TERMS: STRICTLY CASH UNLESS PRIOR ARRANGEMENTS MADE

"I hereby authorize the repair work hereinafter set forth to be done along with the necessary materials and agree that you are not responsible for loss or damage to vehicle or articles left in vehicle in case of fire, theft or any other cause beyond our control or for any delays caused by unavailability of parts or delays in parts shipments by the supplier or transporter. I hereby grant you and/or your employees permission to operate the vehicle, herein described on streets, highways, or elsewhere for the purpose of testing and/or inspection. An express mechanic's lien to hereby acknowledged on above vehicle to secure the amount of repairs thereto."

X

CUSTOMER SIGNATURE

DESCRIPTION	AMOUNT
LABOR AMOUNT	0.00
PARTS AMOUNT	0.00
GAS, OIL, LUBE, ANTIFREEZE	0.00
SUBLET AMOUNT	0.00
SHOP SUPPLIES	0.00
TOTAL CHARGES	0.00
LESS INSURANCE	0.00
SALES TAX	0.00
PLEASE PAY THIS AMOUNT	0.00

CUSTOMER COPY

C

KIMMEL & SILVERMAN
Vivian B. Peikin, Esquire
89 Haddon Avenue North
Haddonfield, NJ 08033
(856) 429-8334

Attorney for Plaintiff

JAMES AND STACY DEAN,	:	SUPERIOR COURT OF NEW JERSEY
Plaintiffs,	:	ESSEX COUNTY, LAW DIVISION
	:	
v.	:	DOCKET NO.: L-7354-03
	:	
WORKHORSE CUSTOM CHASSIS	:	NOTICE OF MOTION FOR LEAVE
Defendant	:	TO AMEND PLAINTIFF'S COMPLAINT

PLEASE TAKE NOTICE that the undersigned will apply to the above-named Court, at the Essex County Courthouse, on January 23, 2004, or as soon thereafter as counsel may be heard for an Order granting Leave to Amend Plaintiff's Complaint.

PLEASE TAKE FURTHER NOTICE that pursuant to R.1:6-2, the undersigned waives oral argument unless responsive papers are timely filed and the Court is inclined to deny the request.

KIMMEL & SILVERMAN

BY: 

VIVIAN B. PEIKIN, Esquire
Attorney for Plaintiff

KIMMEL & SILVERMAN
Vivian B. Peikin, Esquire
89 Haddon Avenue North
Haddonfield, NJ 08033
(856) 429-8334

Attorney for Plaintiff

JAMES AND STACY DEAN,	:	SUPERIOR COURT OF NEW JERSEY
Plaintiffs,	:	ESSEX COUNTY, LAW DIVISION
	:	
v.	:	DOCKET NO.: L-7354-03
	:	
WORKHORSE CUSTOM CHASSIS	:	
Defendant	:	ORDER

THIS MATTER having been brought before the Court by Vivian B. Peikin, Esquire, attorney for Plaintiffs, in the above-captioned matter, for an Order granting Leave to Amend Plaintiffs' Amended Complaint, and the Court having considered the response of the Attorney for Defendants, and oral argument, if any:

IT IS ON THIS day of , 2003, hereby
ORDERED and DECREED that Plaintiffs' Motion is GRANTED and Plaintiffs
may amend the Complaint.

J.S.C.

KIMMEL & SILVERMAN
Vivian B. Peikin, Esquire
89 Haddon Avenue North
Haddonfield, NJ 08033
(856) 429-8334

Attorney for Plaintiff

JAMES AND STACY DEAN,	:	SUPERIOR COURT OF NEW JERSEY
Plaintiff,	:	ESSEX COUNTY, LAW DIVISION
	:	
v.	:	DOCKET NO.: L-7354-02
	:	
WORKHORSE CUSTOM CHASSIS,	:	AFFIDAVIT OF COUNSEL IN SUPPORT
Defendant.	:	OF PLAINTIFF'S NOTICE OF
	:	CROSS-MOTION FOR LEAVE TO
	:	AMEND PLAINTIFF'S COMPLAINT

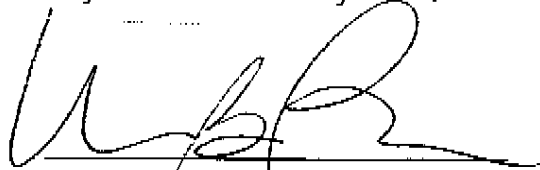
I, Vivian B. Peikin, being of full age and duly sworn to law, hereby deposes and says:

1. I am an attorney in the State of New Jersey and an associate in the firm of Kimmel & Silverman. I am fully familiar with the facts of this case.
2. The within lawsuit involves violations of the New Jersey Motor Vehicle Warranty Act, the Magnuson Moss Warranty Improvement Act, the Uniform Commercial Code and the New Jersey Consumer Fraud Act, all stemming from a 2002 Condor Motorhome by R-Vision, manufactured and warranted by Defendant, Workhorse Custom Chassis.
3. The vehicle was sold by Boat-N-RV Warehouse, an authorized sales and service dealership located in West Coxsackie, New York.

4. The Amended Complaint originally did not include Defendant, Workhorse Custom Chassis, in Count IV alleging violations of the New Jersey Motor Vehicle Warranty Act count.
5. After further discovery, it is believed that Defendant, Workhorse Custom Chassis, violated the New Jersey Motor Vehicle Warranty Act. Additionally, discovery is still outstanding from Defendant, Workhorse Custom Chassis, therefore Defendant, Workhorse, will not suffer undue prejudice as a result of the required amendment. Attached hereto and marked as Exhibit "A" is a copy of Plaintiffs' Amended Complaint.
6. Plaintiffs, therefore, request that they be permitted leave to amend their Amended Complaint to add Defendant, Workhorse Custom Chassis, into Count IV of the Amended Complaint, alleging violations of the New Jersey Motor Vehicle Warranty Act.

This Affidavit is made in support of the within Motion.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



Vivian B. Peikin
An Attorney-At-Law of the
State of New Jersey

Dated: January 5, 2004

KIMMEL & SILVERMAN
Vivian B. Peikin, Esquire
89 Haddon Avenue North
Haddonfield, NJ 08033
(856) 429-8334

Attorney for Plaintiff

JAMES AND STACY DEAN,	:	SUPERIOR COURT OF NEW JERSEY
Plaintiffs,	:	ESSEX COUNTY, LAW DIVISION
	:	
v.	:	DOCKET NO.: L-7354-03
	:	
WORKHORSE CUSTOM CHASSIS	:	
Defendant	:	CERTIFICATE OF SERVICE

I, VIVIAN B. PEIKIN, ESQUIRE, hereby certify that a true and correct copy of the foregoing PLAINTIFFS' MOTION FOR LEAVE TO AMEND PLAINTIFFS' COMPLAINT was served on the following parties via First Class U.S. Mail on the date indicated below:

Workhorse Custom Chassis
600 Central Ave.
Suite 220
Highland Park, IL 07095

KIMMEL & SILVERMAN



VIVIAN B. PEIKIN

Date: January 5, 2004

Cc: John Amari

KIMMEL & SILVERMAN
Vivian B. Peikin, Esquire
89 Haddon Avenue North
Haddonfield, NJ 08033
(856) 429-8334

Attorney for Plaintiff

JAMES AND STACY DEAN,	:	SUPERIOR COURT OF NEW JERSEY
Plaintiff,	:	ESSEX COUNTY, LAW DIVISION
	:	
v.	:	DOCKET NO.: L-7354-03
	:	
WORKHORSE CUSTOM CHASSIS,	:	BRIEF IN SUPPORT OF PLAINTIFF'S
Defendant.	:	MOTION FOR LEAVE TO FILE
	:	AMENDED COMPLAINT

I. FACTS

Plaintiff filed a Complaint against Defendant, Workhorse Custom Chassis, on or about September 5, 2003, asserting the Federal Magnuson Moss Warranty Act (Count I), The Uniform Commercial Code (II) and violations of the New Jersey Consumer Fraud Act (Count III) in connection with Plaintiffs' purchase and subsequent servicing of a 2002 Condor Motor home by R-Vision, manufactured and warranted by Defendant, Workhorse Custom Chassis. The vehicle was sold and serviced by Boat-N-RV Warehouse of West Coxsackie, New York.

After further discovery, it is believed that Boat-N-RV Warehouse and R-Vision acted negligently and made negligent repairs to the vehicle. Furthermore, it is believed that the actions of Boat-N-RV Warehouse and R-Vision constitute violations of the New Jersey Motor Vehicle Warranty Act, the Magnuson-Moss

Warranty Improvement Act, the New Jersey Consumer Fraud Act, as well as a breach of contract. Therefore, on December 19, 2003, Plaintiffs filed an Amended Complaint pursuant to Judge Lombardi's Order of December 5, 2003, granting Plaintiffs' Motion to do the same.

After further discovery, it is believed that Defendant, Workhorse Custom Chassis, also violated the New Jersey Motor Vehicle Warranty Act. Discovery is still outstanding from Defendant Workhorse Custom Chassis, thus Defendant, Workhorse Custom Chassis, will not suffer undue prejudice as a result of the required amendment.

Therefore, Plaintiffs respectfully request leave to amend their Complaint to add as Defendant, Workhorse Custom Chassis, to Count IV of the Amended Complaint alleging violations of the New Jersey Motor Vehicle Warranty Act.

II. LEGAL ARGUMENT

New Jersey Rule of Civil Procedure 4:9 provides:

Rule 4:9-1. Amendments

A party may amend any pleading as a matter of course at any time before a responsive pleading is served, or if the pleading is one to which no responsive pleading is to be served, and the action has not been placed upon the trial calendar, at any time within 20 days after it is served. Thereafter a party may amend a pleading only by written consent of the adverse party or by leave of court, which shall be freely given in the interest of justice.

Thus, while leave to amend is within the discretion of the Court, the Rule requires that leave to amend be "freely given" when justice so requires. In

Forman v. Davis, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed. 2d 222 (1962), the United States Supreme Court held it was error for the an appellate court to affirm the trial court's denial of the plaintiff's Motion to Vacate Judgment of Dismissal for Failure to State a Claim in order to allow the complaint be amended, since it appeared that the amendment would have done no more than state an alternative theory for recovery.


In the instant case, Plaintiffs seek to amend their Complaint in order to add Defendant, Workhorse Custom Chassis, to Count IV of the Amended Complaint alleging violations of the New Jersey Motor Vehicle Warranty Act. No undue prejudice will result from the allowance of such an amendment. However, great prejudice will result to Plaintiffs if they are not permitted to amend the Complaint, as Plaintiffs will, in effect, be denied possible rights of recovery.

III. CONCLUSION

Plaintiffs' Motion for Leave to File an Amended Complaint should be granted in accordance with New Jersey Rule of Civil Procedure 4:9-1, as such Motions should be freely granted, it has not been brought in bad faith, there has been no undue delay, and Defendant will not suffer undue prejudice as a result of the requested amendment.

For the reasons set forth above, Plaintiffs respectfully requests this Honorable Court enter the proposed Order, granting Plaintiff's Motion for Leave

to File an Amended Complaint to add Defendant, Workhorse Custom Chassis, to
Count IV of the Amended Complaint.

BY: 
KIMMEL & SILVERMAN
Vivian B. Peikin
Attorney for Plaintiffs

KIMMEL & SILVERMAN

By: Jacqueline C. Herritt, Esquire
Vivian B. Peikin, Esquire
89 Haddon Avenue North
Haddonfield, New Jersey 08033
(609) 429-8334

Attorneys for Plaintiff

JAMES AND STACEY DEAN
99 Liberty Street
Bloomfield, NJ 07003

v.

WORKHORSE CUSTOM CHASSIS
600 Central Avenue, Suite 220
Highland Park, IL 60035

and

R-VISION
2666 S. Country Club Road
Warsaw, IN 46580

and

BOAT-N-RV WAREHOUSE
12834 Rte. 9W
West Coxsackie, NY

SUPERIOR COURT OF NEW JERSEY
ESSEX COUNTY - LAW DIVISION

CIVIL ACTION

AMENDED COMPLAINT

1. Plaintiffs, James and Stacey Dean, are adult individual citizens and legal residents of the State of New Jersey, residing at 99 Liberty Street, Bloomfield, New Jersey 07003.

2. Defendant, Workhorse Custom Chassis, is a business corporation qualified to do business in the State of New Jersey, with its legal residence and principal place of business located at 600 Central Avenue, Suite 220, Highland Park, Illinois 60035, and can be served at same.

3. Defendant, R-Vision, is a business corporation qualified to do business in the State of New Jersey, with its legal residence and principal place of business located at 2666 S. Country Club Road, Warsaw, IN 46580, and can be served at same.

4. Defendant, Boat-N-RV Warehouse, is a business corporation qualified to do business in the State of New Jersey, with its legal residence and principal place of business located at 12834 Rte. 9W, West Coxsackie, NY 12192, and can be served at same.

BACKGROUND

5. On or about October 14, 2001, Plaintiffs purchased a 2002 Condor Motorhome by R-Vision, manufactured and warranted by Defendant, Workhorse Custom Chassis bearing the Vehicle Identification Number 5B4LP57G113333502. The vehicle was purchased in the State of New York and is registered in the State of New Jersey.

6. The price of the vehicle, including registration charges, document fees, sales tax, finance and bank charges but, excluding other collateral charges not specified, totaled more than \$119,112.00. A true and correct copy of the Sale Contract is attached hereto, made a part hereof and marked Exhibit "A".

7. Plaintiff avers that as a result of the ineffective repair attempts made by Defendant through its authorized dealer(s), the vehicle cannot be utilized for the purposes

intended by Plaintiff at the time of acquisition and as such, the vehicle is worthless.

8. In consideration for the purchase of the above vehicle, Defendant issued to Plaintiff several written warranties, including the balance of a three (3) year or thirty-six-thousand (36,000) mile bumper-to-bumper warranty, and a 72 month/75,000 mile extended warranty, as well as other standard warranties, as set forth in the warranty booklet. A true and correct copy of the Extended Service Plan Contract is not in Plaintiffs' possession, however, it is believed that Defendant may obtain from it's authorized dealer.

9. On or about October 14, 2001, Plaintiff took possession of the above-mentioned vehicle and experienced nonconformities which substantially impair the use, value and/or safety of the vehicle.

10. The nonconformities violate the express written warranties issued to Plaintiff by Defendant.

11. Plaintiff avers the vehicle has been subject to repair more than three (3) times for the same nonconformity, and the nonconformity remains uncorrected.

12. In addition, the above vehicle has or will be out of service by reason of the nonconformities complained of for a cumulative total of twenty (20) days or more.

13. Plaintiff has delivered the nonconforming vehicle to an authorized service and repair facility of the manufacturer on numerous occasions. After a reasonable number of attempts, the manufacturer was unable to repair the nonconformities.

14. During the warranty period, Plaintiff complained about defects and/or non-conformities to the following vehicle components on at least three (3) occasions: transmission, acceleration, engine management system, windshield wipers and powertrain. True and correct copies of repair invoices are attached hereto, made a part hereof and marked Exhibit "B."

15. The vehicle continues to exhibit defects and nonconformities which substantially impair its use, value and/or safety.

16. Plaintiff has been and will continue to be financially damaged due to Defendant's intentional, reckless, wanton and negligent failure to comply with the provisions of its warranty.

17. Plaintiff has provided Defendant with a final repair opportunity prior to filing the within Complaint.

18. Plaintiff seeks relief for losses due to the nonconformities and defects in the above-mentioned vehicle in addition to reasonable attorney fees and all court costs.

COUNT I AGAINST ALL DEFENDANTS
MAGNUSON-MOSS FEDERAL TRADE COMMISSION IMPROVEMENT ACT

17. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

18. Plaintiff is a "Consumer" as defined by 15 U.S.C. §2301(3).

19. Defendant is a "Warrantor" as defined by 15 U.S.C. §2301(5).

20. The purpose for which this product is normally used is personal, family and household use.

21. By the terms of the express written warranties referred to in this Complaint, Defendant agreed to perform effective warranty repairs at no charge for parts and/or labor.

22. Defendant has made attempts on several occasions to comply with the terms of its express warranties; however, such repair attempts have been ineffective.

23. As a direct and proximate result of Defendant's failure to comply with the express written warranties, Plaintiff has suffered damages and, in accordance with 15 U.S.C. §2310(d)(1), Plaintiff is entitled to bring suit for such damages and other legal and equitable relief.

24. Section 15 U.S.C. § 2310(d)(1) provides:
If a consumer finally prevails on an action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the amount of aggregate amount of costs and expenses (including attorney fees based upon actual time expended), determined by the court to have been reasonably incurred by the Plaintiff for, or in connection with the commencement and prosecution of such action, unless the court, in its discretion shall determine that such an award of attorney's fees would be inappropriate.

25. Plaintiff avers Defendant's Dispute Resolution Program is not in compliance with 16 CFR 703 by the FTC for the period of time this claim was submitted.

26. Plaintiff avers that upon successfully prevailing upon the Magnuson-Moss claim herein, all attorney fees are recoverable and are demanded against Defendant.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the contract price of the subject vehicle, plus all collateral charges and attorney fees.

COUNT II AGAINST ALL DEFENDANTS
UNIFORM COMMERCIAL CODE

27. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

28. The defects and nonconformities existing within the vehicle constitute a breach of contractual and statutory obligations of Defendant, including but not limited to the following:

- a. Express Warranty;
- b. Implied Warranty Of Merchantability; and
- c. Implied Warranty Of Fitness For A Particular Purpose.

29. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Plaintiff has justifiably relied upon Defendant's express warranties and implied warranties of fitness for a particular purpose and implied warranties of merchantability.

30. At the time of obtaining possession of the vehicle and at all times subsequent thereto, Defendant was aware Plaintiff was relying upon Defendant's express and implied warranties, obligations, and representations with regard to the subject vehicle.

31. Plaintiff has incurred damages as a direct and proximate result of the breach and failure of Defendant to honor its express and implied warranties.

32. Such damages include, but are not limited to, the contract price of the vehicle plus all collateral charges, including attorney fees and costs, as well as other expenses, the full extent of which are not yet known.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant, in an amount equal to the contract price of the subject vehicle, plus all collateral charges and attorney fees.

COUNT III AGAINST ALL DEFENDANTS
NEW JERSEY CONSUMER FRAUD ACT

33. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

34. Plaintiff is a "Person" as defined by N.J.S.A. 56:8-1(d).

35. Defendant is a "Person" as defined by N.J.S.A. 56:8-1(d).

36. Defendant's actions surrounding the sale and servicing of the subject vehicle were unconscionable. Defendant's agents also acted with a reckless and callous disregard for Plaintiff's rights in negotiating and handling Plaintiff's warranty claims.

37. Defendant's actions surrounding the sale and servicing of said vehicle constitute a unconscionable commercial practice, deception, fraud, false pretense, false promise, and/or misrepresentation. Defendant and its agents acted affirmatively in such a manner as to be an unlawful commercial practice.

38. Defendant acted knowingly with the intent to cause plaintiff's reliance thereupon.

39. Defendant knowingly concealed, suppressed, or omitted facts material to the transactions at issue, in that Defendant was aware the defect(s)/condition(s) could not be repaired, and that the ineffectual repairs were performed by incompetent or unqualified individuals. Defendant's failure to verify the defect(s) or condition(s) constitutes a refusal to perform the repairs under its statutory or contractual obligations.

40. Plaintiff believes, and therefore, avers that the defect(s) or condition(s) outlined previously is/are an inherent design defect and that as such the Defendant must certify the existence of this defect or condition to the Division of Consumer Affairs. Defendant has failed to file this certification and this failure is a violation of the New Jersey Consumer Fraud Act N.J.S.A. 56:8-1 et seq.

41. Defendant's failure to supply an itemized legible statement of repair is an unlawful practice pursuant to the New Jersey Consumer Fraud Act N.J.S.A. 56:8-2.

42. The Act prohibits the aforementioned action of Defendant in the sale and attempted repair of the subject vehicle.

43. Plaintiff believes, and therefore, avers the reckless, wanton and willful failure of Defendant to comply with the terms of the written warranties constitutes an unfair method of competition.

44. As a result of Defendant's unlawful conduct, Plaintiff has and will continue to suffer ascertainable financial loss proximately caused by the Defendant's conduct. Said losses are outlined as follows:

- a. Plaintiff is entitled to a full refund N.J.S.A. 56:8-2.11-12;
- b. Plaintiff's vehicle given the defect/condition is worthless;
- c. Plaintiff lost time from work and other money as a result of having to take the vehicle in for the repeated repair attempts;
- d. Plaintiff has been relegated to finding alternative means of transportation while the vehicle was in for repairs and while the vehicle has been in its present condition. As a result, Plaintiff has incurred additional transportation costs; and
- e. Plaintiff has expended sums to maintain, store, insure, register,

and other expenses for
transportation.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant for compensatory damages, treble damages, attorney fees, costs of suit, and any further relief as the Court may deem just and proper.

COUNT IV AGAINST ALL DEFENDANTS
NJ MOTOR VEHICLE WARRANTY ACT

45. Plaintiff hereby incorporates all facts and allegations set forth in this Complaint by reference as if fully set forth at length herein.

46. Plaintiff is a "'Consumer'" as defined by N.J.S.A.
56:12-30.

47. Defendant is a "'Manufacturer'" as defined by N.J.S.A.
56:12-30.

48. Boat-N-RV Warehouse, is and/or was at the time of sale a "'Dealer or Motor Vehicle Dealer'" in the business of buying, selling, and/or exchanging vehicles as defined by N.J.S.A. 56:12-30.

49. On or about October 14, 2001, Plaintiff took possession of the above mentioned vehicle and experienced nonconformities as defined by N.J.S.A. 56:12-29 et seq., which substantially impair the use, value and/or safety of the vehicle.

50. Defendant through its authorized dealer failed to provide written notification that the vehicle was covered by the New Jersey Motor Vehicle Warranty Act as provided in N.J.S.A.

56:12-34(c). Plaintiff believes and therefore avers said failure is a per se violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., as well as a violation of the New Jersey Motor Vehicle Warranty Act.

51. The nonconformities described violate the express written warranties issued to Plaintiff by Defendant.

52. Section 56:12-32 of the New Jersey Motor Vehicle Warranty Act provides:

- a. If, during the period specified in section 3 of this act, the manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time, the manufacturer shall accept return of the motor vehicle from the consumer. The manufacturer shall provide the consumer with a full refund of the purchase price of the original motor vehicle including any stated credit or allowance for the consumer's used motor vehicle, the cost of any options or other modifications arranged, installed, or made by the manufacturer or its dealer within 30 days after the date of original delivery, and any other charges or fees including, but not limited to, sales tax, license and registration fees, finance charges, reimbursement for towing and reimbursement for actual expenses incurred by the consumer for the rental of a motor vehicle equivalent to the consumer's motor vehicle and limited to the period during which the consumer's motor vehicle was out of service due to a nonconformity, less a reasonable allowance for vehicle use.

53. Section 56:12-33 of the New Jersey Motor Vehicle Warranty Act provides a presumption of a reasonable number of repair attempts:

- a. It is presumed that a manufacturer or its dealer is unable to repair or correct a nonconformity within a reasonable time if, within the first 18,000 miles of operation or during the period of two years following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date:
 - (1) Substantially the same nonconformity has been subject to repair three or more times by the manufacturer or its dealer and the nonconformity continues to exist; or
 - (2) The motor vehicle is out of service by reason of repair for one or more nonconformities for a cumulative total of 20 or more calendar days since the original delivery of the motor vehicle and a nonconformity continues to exist.
- b. The presumption contained in sub-section a. of this section shall apply against a manufacturer only if the manufacturer has received

written notification, by or on behalf of the consumer, by certified mail return receipt requested, of a potential claim pursuant to the provisions of this act and has had one opportunity to repair or correct the defect or condition within 10 calendar days following receipt of the notification. Notification by the consumer shall take place any time after the motor vehicle has had substantially the same nonconformity subject to repair two or more times or has been out of service by reason of repair for a cumulative total of 20 or more calendar days.

54. Plaintiff has satisfied the above definition as the vehicle has been subject to repair more than three (3) times for the same nonconformity, and the nonconformity remained uncorrected.

55. In addition, the above vehicle has or will be out of service by reason of the nonconformities complained of for a cumulative total of twenty (20) or more calendar days.

56. Plaintiff has delivered the nonconforming vehicle to an authorized service and repair facility of the Defendant on numerous occasions as outlined below.

57. After a reasonable number of attempts, Defendant was unable to repair the nonconformities.

58. During the warranty period, Plaintiff complained about defects and/or non-conformities to the following vehicle components on at least three (3) occasions: transmission, acceleration, engine management system, windshield wipers and powertrain. True and correct copies of repair invoices are attached hereto, made a part hereof and marked Exhibit "B.

59. The vehicle continues to exhibit defects and nonconformities which substantially impair its use, value and/or safety.

60. Plaintiff has been and will continue to be financially damaged due to Defendant's intentional, reckless, wanton, and negligent failure to comply with the provisions of N.J.S.A. 56:12-29 et seq.

61. Plaintiff has provided Defendant with a final repair opportunity prior to filing the within Complaint.

62. Pursuant to N.J.S.A. 56:12-29 et seq., Plaintiff seeks relief for losses due to the nonconformities and defects in the above-mentioned vehicle in addition to reasonable attorney fees and all court costs.

WHEREFORE, Plaintiff respectfully demands judgment against Defendant in an amount equal to the price of the subject vehicle, plus all collateral charges, attorneys' fees, and court costs.

KIMMEL & SILVERMAN

By: 

Jacqueline C. Herritt, Esquire
Vivian B. Perkin, Esquire
Attorneys for Plaintiff
89 Haddon Avenue North
(856) 429-8334

JURY-DEMAND

Plaintiff hereby demands a trial by jury as to all issues.

KIMMEL & SILVERMAN

By: _____

Jacqueline C. Herritt, Esquire
Vivian B. Peikin, Esquire
Attorneys for Plaintiff

CERTIFICATION PURSUANT TO R.4:15-1

Upon knowledge and belief I hereby certify that there are no other actions or arbitrations related to this suit pending or presently contemplated.

KIMMEL & SILVERMAN

By: _____

Jacqueline C. Herritt, Esquire
Vivian B. Peikin, Esquire
Attorneys for Plaintiff

CERTIFICATION OF NOTICE

Pursuant to N.J.S.A. 56:8-20 Plaintiff is mailing a copy of this Complaint to the Office of the Attorney General, Richard J. Hughes Justice Complex, 25 West Market Street in the City of Trenton, County of Mercer, in the State of New Jersey on , 2003.

KIMMEL & SILVERMAN

By: 

JACQUELINE C. HERRITT, ESQUIRE
VIVIAN B. PEIKIN, ESQUIRE
Attorneys for Plaintiff